

Appln. No. 10/689,012

Amendment in Resp. to Office Action of Aug. 25, 2004

UTILITY PATENT

B&D No. TN-3167A

REMARKS

Applicants have amended Claims 31-39 and 42, and canceled Claims 40-41. Currently in the above-identified application therefore are Claims 31-39 and 42.

The Examiner also rejected Claims 31-42 under 35 USC § 101 as claiming the same invention as that of Claims 31-42 of copending application no. 10/277,474 ("the '474 Application"). Reconsideration and withdrawal of this rejection is respectfully requested.

Because the Examiner has allowed Claims 31-42 of the '474 Application without any changes, Applicants have amended Claim 31 to vary the scope thereof. Accordingly, the pending claims do not cover the exact same subject matter of Claims 31-42 of the '474 Application. Therefore the double patenting rejection is moot.

The Examiner rejected Claims 31 and 39-41 under 35 USC § 102(e) as being anticipated by US Patent No. 6,502,319 ("Goodrich"). The Examiner also rejected Claims 32-34 under 35 USC § 103(a) as unpatentable over Goodrich in view of US Patent No. 5,539,990 ("Le"). In addition, the Examiner rejected Claims 35-38 under 35 USC § 103(a) as unpatentable over Goodrich in view of US Patent No. 4,700,489 ("Vasile"). Reconsideration and withdrawal of these rejections are respectfully requested.

Claim 31, as amended, calls for a level disposable on a reference surface comprising a housing, a first light diode disposed in the housing for emitting a first light beam along a first path, a first lens disposed in the housing in the first path for converting the first light beam into a first planar beam, the first planar beam forming a first line on the reference surface, a hanging

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assembly connected to the housing for mounting the level to the reference surface, the hanging assembly comprising a reference surface assembly that contacts the reference surface, and a magnet disposed on one of the reference surface assembly and the housing, and a metal plate disposed on the other of the reference surface assembly and the housing.

Admittedly, Goodrich discloses a level disposable on a reference surface having a housing, a first light diode disposed in the housing for emitting a first light beam along a first path, and a first lens disposed in the housing in the first path for converting the first light beam into a first planar beam, the first planar beam forming a first line on the reference surface.

However, Goodrich does not disclose a hanging assembly connected to the housing, the hanging assembly comprising a reference surface assembly contacting the reference surface, and a magnet disposed on one of the reference surface assembly and the housing, and a metal plate disposed on the other of the reference surface assembly and the housing. Instead Goodrich shows a magnet mounted on the housing and directly contacting the reference surface.

Such prior art arrangement works on certain metallic surfaces. However, providing a hanging assembly as claimed allows for further flexibility and utility, as it allows the user to easily change the hanging assembly according to the material of the reference surface. This hanging assembly is then magnetically mounted on the laser housing.

Such advantageous arrangement is not taught or suggested in Goodrich, Le or Vasile. Accordingly, these references cannot render Claim 31 and its dependent claims unpatentable.

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The Examiner rejected Claims 31, 40 and 42 under 35 USC § 102(e) as being anticipated by US Patent No. 6,735,879 ("Malard"). Reconsideration and withdrawal of this rejection is respectfully requested.

As discussed above, amended Claim 31 includes the subject matter of Claim 41, which has not been rejected under Malard. Accordingly, the present rejection under Malard is moot.

In view of the foregoing, all the claims are patentable and the application is believed to be in condition for formal allowance. Reconsideration of the application and allowance of Claims 31-39 and 42 are respectfully requested.

No fee is due for the present amendment. Nevertheless, the Commissioner is authorized to charge payment of any fees due in processing this response, or credit any overpayment to Deposit Account No. 02-2548.

Respectfully submitted,


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